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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,922	09/12/2003	Gil A. Sena	03-0034	7329
30550	7590	05/24/2005	EXAMINER	
BILL & MARY LOU INC. 101 LOMBARD STREET #510 W SAN FRANCISCO, CA 94111			BATSON, VICTOR D	
		ART UNIT		PAPER NUMBER
				3671

DATE MAILED: 05/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/660,922	SENA, GIL A.
Examiner	Art Unit	
Victor Batson	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 14 March 2005.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-12 is/are pending in the application.  
4a) Of the above claim(s) 10-12 is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1,2 and 9 is/are rejected.

7)  Claim(s) 3-8 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/12/03.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_ .

***Election/Restrictions***

Applicant's election without traverse of Group I, claims 1-9, in the reply filed on 3/14/05 is acknowledged.

***Claim Objections***

Claims 1-8 are objected to because of the following informalities: In claim 1 line 9, "the seedling roots" lacks proper antecedent basis. In claim 3 line 14, "the seedling tray positioning and advancing means" lacks proper antecedent basis. In claim 3 line 17, "the hydraulic pressure" lacks proper antecedent basis. In claim 4 line 12, "the seedling tray edges" lacks proper antecedent basis. In claim 4 line 13, "the hold-down strip" lacks proper antecedent basis. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williames (6,327,986) in view of Bouldin et al. (5,860,372).

Williames discloses a seedling planting apparatus comprising a tractor connection (not shown but disclosed in column 1 lines 61-62), means for adjusting planted seedling spacing (considered the microprocessor control described in column 3 lines 41-46), individual seedling extraction (fig. 3b) and a means for seedling positioning

and planting (fig. 16). Williames however lacks a seedling tray size or spacing adjustment.

Bouldin et al. teaches that it is known in the art for a seedling handling apparatus to use a tray-handling device that allows the device to handle various sized trays (col 2, lines 7-13).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Williames by using a tray handling apparatus that allows for tray size adjustment and tray spacing adjustment, to allow the device to be adaptable to various sizes and types of trays and plants as taught by Bouldin et al..

Concerning claim 2, the examiner takes official notice that the use of multiple hitch devices is notoriously old and well known in the agricultural art as it allows a device to be pulled by multiple vehicles and most agricultural tractors use various hitch systems. Similarly, the examiner takes official notice that using a towing vehicles hydraulic system to power a towed agricultural device is old and well known in the agricultural art.

Concerning claim 9, the combination renders the claimed method steps obvious since such would be a logical manner of using the combination.

#### ***Allowable Subject Matter***

Claims 3-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Batson whose telephone number is (571) 272-6987. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on (571) 272-6998. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

May 19, 2005



Victor Batson  
Primary Examiner  
Art Unit 3671